IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

CRP.No. 1013 of 2007()

AGAINST THE ORDER DATED 05/09/2007 IN IA.1434/2007 IN OS.17/2002 of SUB COURT, OTTAPPALAM
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REVN. PETITIONER: PETITIONER

K.S.MUHAMMED HAJI,
S/O KORAKKATTIL SAITHALI HAJI,
MUTHUTHALA AMSOM AND DESOM,
OTTAPALAM TALUK.

BY ADV. SRI.P.K.MOHANAN(PALAKKAD)

RESPONDENTS: PLAINTIFF & DEFENDANTS
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1. IBRAHIM, S/O LATE MOOSA,
KODALIL HOUSE, MUTHUTHALA AMSOM DESOM,
OTTAPALAM TALUK, PIN-679314.
(SUPPLEMENTAL 2ND PLAINTIFF).

2. USMAN, S/O ALIKUTTY,
DRIVER, KODALIL HOUSE,MUTHUTHALA AMSOM DESOM,
OTTAPALAM TALUK, PIN-679314.
(SUPPLEMENTAL 31ST DEFENDANT).

3. M.K.AHAMMEDKUTTY HAJI, S/O MARAKKAR,
MACHINGATHODI KIZHAKETHIL, PERMUDIYUR AMSOM,
KODUMUNDA DESOM, OTTAPALAM TALUK-679303.
(SUPPLEMENTAL 37TH DEFENDANT).

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1013 OF 2007

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Dated this the 21st day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Subordinate Judge, Ottapalam whereby he has rejected the application filed by the revision petitioner for impleading him as 39th defendant in the suit. The application for impleadment was filed on the ground that he had purchased the share of the 19th defendant and therefore he must be impleaded as a party in the partition suit as he has stepped into the shoes of the 19th defendant. The Court below dismissed the application on the ground that the respondents had resisted the petition on the ground that D19 has no right or share over the suit properties.

2. Learned counsel for the revision petitioner had produced before me a copy of the plaint as well as the documents. In paragraph 4 of the plaint there is a recital that the rights of Kunhirayan had devolved upon the plaintiff and the defendants 19 to 29. So. at least the plaintiff has got a case that D19 is also entitled to right over the property. It

is that right which is transferred in favour of 39th defendant and in a suit for partition it is desirable at the earlier stage to implead him so that there need not be any further complication for passing a decree. The reason given by the learned Subordinate Judge is incorrect and therefore it requires interference. Therefore, the order under challenge is set aside and the petition for impleading is allowed. The Court below is directed to give direction to the plaintiff to amend the plaint and thereafter permit the parties to file written statement/replications or additional written statements.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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